

News from Ed Markey

United States Congress

Massachusetts Seventh District

FOR IMMEDIATE RELEASE

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MARKEY URGES SEC CHAIR PITT TO ACCEPT RECUSAL TERMS FOR HIS ENTIRE TENURE IN OFFICE

*Lawmaker Warns of "Dark Day for the Public Interest"
If Recusal Agreement Is Allowed to Expire*

Washington, DC: Representative Ed Markey (D-MA), a senior member of the House Energy and Commerce Committee, today urged Securities and Exchange Commission (SEC) Chairman Harvey Pitt to make permanent his agreement to recuse himself from SEC proceedings involving his former clients. Mr. Pitt's recusal agreement expires on August 3, 2002. In comments made yesterday, Mr. Pitt indicated that he intends to be actively involved in Commission matters involving his former clients when his current recusal period expires next month.

"Since the conflicts-of-interest have not expired, neither should the recusal agreement," said Markey. "Otherwise, August 3 will mark the day that the many former clients of Chairman Pitt rush to the SEC to re-establish their 'special relationship' with this powerful regulator. That would be a dark day for the public interest."

In a letter sent today to the SEC, Rep. Markey wrote: "We are troubled to learn of your comments, as reported in The New York Times ("S.E.C. Chief to Take Role in Cases of Former Clients"), that you intend to participate fully in Commission decisions regarding your former clients once your recusal period expires on August 3, 2002. We believe this would be unwise, as it would further deepen the crisis of confidence in the securities markets and call into question the ability of the Commission to be an objective and vigorous enforcer of the securities laws. Therefore, we are writing to urge you to make permanent the temporary period of recusal that you voluntarily adopted for your first year as chairman of the SEC."

In calling on Mr. Pitt to permanently extend the resusal period, Rep. Markey wrote "We firmly believe that such a clear, inclusive, and unambiguous policy bolsters the confidence that market participants have in the Commission's objectivity, while sending a strong signal to potential wrongdoers about the Commission's determination to root out corporate malfeasance, no matter which parties may be involved."

You may find all of Mr. Markey's correspondence with the SEC at www.house.gov/markey.

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www.house.gov/markey

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July 18, 2002

The Honorable Harvey Pitt
Chairman
Securities and Exchange Commission
450 5th Street, N.W.
Washington, D.C. 20545

Dear Mr. Chairman:

I am troubled to learn of your comments yesterday, as reported in The New York Times ("S.E.C. Chief to Take Role in Cases of Former Clients"), that you intend to participate fully in Commission decisions regarding your former clients once your recusal period expires on August 3, 2002. I believe this would be unwise, as it would further deepen the crisis of confidence in the securities markets and call into question the ability of the Commission to be an objective and vigorous enforcer of the securities laws. Therefore, I am writing to urge you to make permanent the temporary period of recusal that you voluntarily adopted for your first year as chairman of the Securities and Exchange Commission (SEC).

Prior to your confirmation, you pledged to recuse yourself from Commission matters in which your professional activities as an attorney in private practice would create a conflict-of-interest with the duties and responsibilities of the chairmanship. At the time, you notified the Commission's ethics counsel that you would observe a recusal period for one year following your appointment, which would ensure that the impartiality of your official actions would be beyond question. As the expiration of this recusal period is imminent, the public interest would be well-served by your clarifying your understanding of what parties are covered under the current recusal agreement and by your extending your recusal, immediately and unequivocally, for the duration of your tenure as chairman of the Commission.

It is my understanding that the list of specific matters from which you are recused under the current recusal agreement includes, but is not limited to, Commission proceedings that involve any client you represented as an attorney in private practice within the year prior to being appointed chairman. Please provide a complete list of the clients to whom you believe this applies. Does this category include the American Institute of Certified Public Accountants (AICPA) and its member firms? Please confirm your understanding of the parties covered under the current recusal period and provide additional matters, if any, in which you do not participate due to the terms of your recusal

agreement. In addition, please provide a complete list of all the matters from which you recused yourself since your appointment.

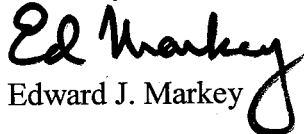
I appreciate the Commission's responses to questions I have posed in previous correspondence regarding recusal rules in effect to prevent inappropriate contact between you and your former clients, many of whom have business before the Commission. As I understand it, previous chairmen have seen fit to observe a recusal policy for the entirety of their chairmanship which explicitly banned participation in Commission matters involving previous clients. Please describe any such agreements and the manner in which you have departed or followed those precedents.

In previous Commission correspondence with myself and Rep. Dingell, you cited your recusal policy to provide assurances that a meeting with a former client did not present a conflict-of-interest. Specifically, in the Commission's May 7, 2002 letter relating to your meeting with KPMG's CEO Eugene O'Kelly, you assured us that any discussion with Mr. O'Kelly about the SEC's investigation of KPMG would have been fruitless due to your recusal from any matters involving your former client KPMG that may come before the Commission. This recusal is an important safeguard, which would no longer be in force if you terminate your recusal period next month.

I firmly believe your prompt adoption of a clear, inclusive, and easily administered policy will bolster the confidence of market participants in the Commission's objectivity, while sending a strong signal to potential wrongdoers about the Commission's determination to root out corporate malfeasance, no matter which parties may be involved. Conversely, if you fail to renew your recusal agreement, the ensuing ad hoc, case-by-case, highly subjective decisions that will then become necessary will be fraught with difficulty and will not be an effective means of instilling public confidence in the Commission.

In conclusion, I urge you to make your recusal period permanent when it expires next month. Please respond to our questions within 7 working days, or no later than July 24, 2002.

Sincerely,


Edward J. Markey